

**REMARKS**

Claims 12-17, 19 and 23 are pending in the present application.

The Examiner has required election in the present application between:

Group I, claims 12, 16 and 17, drawn to a method of treating alopecia with a product comprising peptides of Formula 12(I);

Group II, claims 12, 13, 14, 16 and 17, drawn to a method of treating alopecia with a product comprising peptides of Formulas 12(II) and 12 (III);

Group III, claims 12, 13, 14, 15, 16, 19 and 20, drawn to a method of treating alopecia with a topical product comprising peptides of Formula 12(II) and 12 (III) and peptides of SEQ ID NOS: 11-14;

Group IV, claims 12, 13, 14, 15, 16, 21 and 22, drawn to a method of treating alopecia with a dietary product comprising peptides of Formula 12(II) and 12 (III) and peptides of SEQ ID NOS: 11-14;

Group V, claims 12, 13, 14, 15, 17, 19 and 20, drawn to a method of treating alopecia with a topical product comprising peptides of Formula 12(II) and peptides of SEQ ID NOS: 5-10;

Group VI, claims 12, 13, 14, 15, 17, 21 and 22, drawn to a method of treating alopecia with a dietary product comprising peptides of Formula 12(II) and peptides of SEQ ID NOS: 5-10;

Group VII, claims 12 and 17-20, drawn to a method of treating alopecia with a topical product comprising peptides of Formula 12(I) and peptides of SEQ ID NOS: 15-16;

Group VIII, claims 12 and 17-20, drawn to a method of treating alopecia with a topical product comprising peptides of Formula 12(I) and peptides of SEQ ID NOS: 17-19;

Group IX, claims 12, 13, 14 and 17-20, drawn to a method of treating alopecia with a topical product comprising peptides of Formula 12(II) and peptides of SEQ ID NOS: 15-16;

Group X, claims 12, 13, 14 and 17-20, drawn to a method of treating alopecia with a topical product comprising peptides of Formula 12(II) and peptides of SEQ ID NOS: 17-19;

Group XI, claims 12, 17, 18 and 21-22, drawn to a method of treating alopecia with a dietary product comprising peptides of Formula 12(II) and peptides of SEQ ID NOS: 15-16;

Group XII, claims 12, 17, 18 and 21-22, drawn to a method of treating alopecia with a topical product comprising peptides of Formula 12(I) and peptides of SEQ ID NOS: 17-19;

Group XIII, claims 12, 13, 14, 17, 18 and 21-22, drawn to a method of treating alopecia with a dietary product comprising peptides of Formula 12(II) and peptides of SEQ ID NOS: 15-16; and

Group XIV, claims 12, 13, 14, 17, 18 and 21-22, drawn to a method of treating alopecia with a topical product comprising peptides of Formula 12(II) and peptides of SEQ ID NOS: 17-19.

**For the purpose of examination of the present application, Applicants elect, with traverse, Group II, Claims 12, 13, 14, 16 and 17.**

The Examiner has required an election in the present application between:

Species Peptides of SEQ ID NOS: 1-2;

Species Peptides of SEQ ID NOS: 3-4;

Species Peptides of SEQ ID NOS: 5-10;

Species Peptides of SEQ ID NOS: 11-14; and

The Radicals of "A" corresponding to Formula 12(III)

The N-terminal component "W"

The C-terminal component "Z"

**For the purpose of examination of the present application, Applicants elect the Species which corresponds to SEQ ID NO: 12, illustrated in Example 1, with traverse.**

**As acknowledged by the Examiner, at least claim(s) 12-22 are generic.**

*Arguments Traversing Restriction/Election of Species Requirement*

Applicants respectfully disagree with the restriction requirement since in the document USP 5,470,876, the product that can stimulate hair growth topically is a complex of a peptide and a transition metal, the peptide being Gly-His-Lys. In the present invention, the peptide Gly-His-Lys is never used alone. Either the peptide has a formula I (X-Gly-His-Lys-Y) in which X represents a chain of one to three Lys residues that are optionally methylated or the peptide Gly-His-Lys is conjugated with an acid of formula III or a lipoic acid.

Applicants further disagree with the restriction requirement with respect to Groups II and III. The Examiner seems to imply that Group III is drawn to a method of treating alopecia with a topical product comprising a combination of peptide of formula II and of peptides of SEQ ID NOS: 11-14. However, the peptide conjugates of SEQ ID NOS: 11-14 are only examples of peptide conjugates of formula II and claim 15 does not concern a combination of peptides of formula II with peptide conjugates of formula 1-10 (SEQ ID NO: 5 to SEQ ID NO: 14).

Applicants agree that the patent application WO 97/18235 already discloses the peptides and peptide conjugates of the present invention. However, the claims of record do not concern the peptides or conjugates thereof as such, but concern only a method of treating alopecia with such peptides or peptide conjugates. Please find enclosed the English translation of the patent application WO 97/18235. As it can be seen from this document, it has not been disclosed or suggested that such peptides or peptide conjugates can be used in such a method since they were not known to treat alopecia.

The present claim amendments limit the claims to peptide conjugates and to indicate that the peptide conjugates are not coupled with zinc. As a result of the present claim amendments, the object of the claims is now new and involves an inventive step in view of USP 5,470,876. USP 5,470,876 indicates only that complex of a peptide and a transition metal can stimulate hair growth when applied topically to skin. Moreover, the peptides used in USP 5,470,876 are not peptide conjugates. Thus, the present claims are now in condition for allowance. A Notice of Allowance is earnestly solicited.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Andrew D. Meikle, Registration No. 32,868 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

Application No.: 10/565,007

Docket No.: 3493-0158PUS1


☐ Attached is a Petition for Extension of Time.

☐ Attached hereto is the fee transmittal listing the required fees.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to our Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under § 1.17; particularly, extension of time fees.

Dated: **MAR 26 2007**

Respectfully submitted,

By   
MTC Andrew D. Meikle  
Registration No.: 32,868  
BIRCH, STEWART, KOLASCH & BIRCH, LLP  
8110 Gatehouse Road  
Suite 100 East  
P.O. Box 747  
Falls Church, Virginia 22040-0747  
(703) 205-8000  
Attorney for Applicant